

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

Civil Action No. 05-11395-RCL

PATRICIA BERGEVINE,
Plaintiff,

v.

PEASE & CURREN, INC, PEASE & CURREN
MATERIALS, INC., FRANCIS H. CURREN, JR.,
ROBERT H. PEASE, JR., FRANCIS H. CURREN,
III A/K/A KIP CURREN AND MEREDITH A.
CURREN.

Defendants.

AFFIDAVIT OF ERIN J. BRENNAN, ESQ.

I, Erin J. Brennan, hereby depose and state as follows:

1. I am an attorney with the law firm of Johnson & Aceto, LLP, 67 Battery March Street, Suite 400, Boston, Massachusetts, duly licensed to practice law in the Commonwealth of Massachusetts and the State of Connecticut. I am also admitted to practice in the United States District Court for the District of Massachusetts.
2. I am an attorney for Patricia Bergevine ("Plaintiff") in the above-captioned matter.
3. On or about July 1, 2005, I filed a Complaint on behalf of the Plaintiff filed against the Defendants Pease & Curren, Inc., Pease & Curren Materials, Inc., Francis H. Curren, Jr., Robert H. Pease, Jr., Francis H. Curren, III a/k/a Kip Curren and Meredith Curren (the "Defendants") for breach of contract, fraud, violations of the Racketeer Influence and Corrupt Organization Act (RICO), 18 U.S.C. §§ 1962(a) and 1962 (c), negligent infliction of emotional distress and intentional infliction of emotional distress as a result of Defendants' fraudulent conduct and business practices¹.
4. The Defendants answered Plaintiff's Complaint (the "Defendants' Answer") on August 9, 2005, denying Plaintiff's allegations.

¹ On or about April 24, 2006, I filed a Motion to Amend Plaintiff's Complaint to add a count for Violations of Mass. Gen. Laws ch. 93A, *et. seq.* The Motion is currently pending before the Court.

5. On November 30, 2005, I prepared and submitted a Joint Proposed Scheduling Order, along with counsel for the Defendants, to the Court (Lindsay, J.), and on December 1, 2005, the Court (Lindsay, J.) held a scheduling conference to determine discovery dates and deadlines.
6. On or about March 1, 2006, the Defendants served the Plaintiff with a Request for Production of Documents, Interrogatories Propounded to Plaintiff, and Notices of Deposition for the Plaintiff and two (2) witnesses, Bethany Warburton and Advanced Chemical Company.
7. On March 10, 2006, the Plaintiff served the Defendants with the following: Plaintiff's Interrogatories Propounded Upon the Defendants Francis H. Curren, Jr., Francis H. Curren, III a/k/a Kip Curren, Robert H. Pease, Jr. and Meredith Curren; Plaintiff's Interrogatories Propounded Upon the Defendant Pease & Curren, Inc.; Plaintiff's Interrogatories Propounded Upon the Defendant Pease & Curren Materials, Inc.; Plaintiff's Request for Production of Documents Propounded Upon the Defendants Francis H. Curren, Jr., Francis H. Curren, III a/k/a Kip Curren, Robert H. Pease, Jr., Meredith Curren, Pease & Curren, Inc. and Pease & Curren Materials, Inc.; Notice of Deposition of Robert H. Pease, Jr.; Notice of Deposition of Francis H. Curren, Jr.; Notice of Deposition of Francis H. Curren, III; Notice of Deposition of Meredith Curren; Notice of Deposition Pursuant to 30(b)(6) of Pease & Curren, Inc.; and Notice of Deposition Pursuant to 30(b)(6) of Pease & Curren Materials, Inc.
8. The Plaintiff timely responded to all of Defendants' discovery requests, including serving her Answers to Interrogatories and Responses to Defendants' Document Request on the Defendants on April 7, 2006², serving copies of all relevant documents on the Defendants on April 11, 2006, and attending her deposition on April 12, 2006.
9. On or about April 11, 2006, counsel for the Defendants requested that Plaintiff supplement her answers to interrogatories, despite the fact that Defendants' various responses to Plaintiff's discovery were due on or about April 10, 2006.
10. On April 24, 2006, I contacted Defendants' Counsel via telephone to discuss the following issues pursuant to LR, D.MASS. 7.1(A): i) the Defendants' failure to provide discovery responses; ii) the Plaintiff's intent to file a Motion to Amend the Complaint; and iii) to confirm the Defendants' depositions scheduled for Thursday, April 27, 2006 and Friday, April 28, 2006.
11. At that time, Defendants' counsel informed me that the Defendants were refusing to provide answers to interrogatories and were refusing to produce the Defendants for their depositions pending the filing of a Motion for a Protective Order.

² Defendants granted Plaintiff a brief extension to serve all discovery responses.

Signed under the pains and penalties of perjury this 1st Day of May, 2006.

/s/ Erin J. Brennan
Erin J. Brennan